

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

Alliance for Hippocratic Medicine, *et al.*,

Plaintiffs,

and

State of Missouri, *et al.*,

Intervenor-Plaintiffs,

*v.*

U.S. Food and Drug Administration, *et al.*,

Defendants,

and

Danco Laboratories, LLC,

Intervenor-Defendant.

Case No. 2:22-cv-00223-Z

**MOTION FOR LEAVE TO AMEND COMPLAINT**

The States of Missouri, Kansas, and Idaho seek to amend their complaint pursuant to Federal Rules of Civil Procedure 15. The States have not yet amended their complaint, and there is no prejudice to Defendants because they are in a similar situation to if the States simply filed a suit anew.

**I. The Court should permit amendment.**

The States seek leave under Rule 15 to amend to provide greater factual support for the theories earlier presented in the initial complaint. The proposed

amended complaint challenges the same FDA actions as in the original complaint; it simply includes additional factual support. Some paragraphs in the proposed amended complaint concern facts that postdate that complaint, but the nature of those facts is similar to facts underlying the original complaint. For example, the amended complaint discusses August 2024 reporting in the *Wall Street Journal* about “pill-packing parties” where out-of-state organizations rely on FDA’s actions to “help strangers in faraway states circumvent strict laws.” Scott Calvert, *The Parties Where Volunteers Pack Abortion Pills for Red-State Women*, Wall Street Journal (Aug. 12, 2024).<sup>1</sup> These allegations are similar to those in the original complaint, which discussed out-of-state organizations in New York using the “FDA-approved pipeline” to ship chemical abortion pills into States like Missouri. ECF 151-1 ¶ 288. On August 19, 2024, counsel for the States informed Defendants and Intervenor-Defendants of their intention to seek leave to amend. They oppose this motion.

Particularly here, where the States have not yet amended their complaint, “[t]he court should freely give leave.” Rule 15(a)(2). Absent extraordinary circumstances, each plaintiff is generously afforded a first “opportunity to amend or supplement the pleadings freely, so that he may state his best case.” *Wicks v. Mississippi State Empl. Servs.*, 41 F.3d 991, 997 (5th Cir. 1995). Rule 15 creates a “liberal amendment policy,” so a motion “should not be denied unless there is ‘undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed [or] undue prejudice to the opposing

---

<sup>1</sup> <https://www.wsj.com/us-news/abortion-pill-parties-shipping-148e3c15>

party by virtue of allowance of the amendment.” *United States ex rel. Willard v. Humana Health Plan of Tex., Inc.*, 336 F.3d 375, 386 (5th Cir. 2003) (citation omitted). None of those conditions is present here.

The filing of this Amended Complaint will not result in prejudice to Defendants. Defendants’ deadline to answer has been stayed for over a year. *See* ECF 144. The parties have not conducted discovery, and Defendants have not yet served their initial disclosures under Federal Rule of Civil Procedure 26(a). This motion is not filed for purposes of delay, and no scheduling order will be disturbed by the entry of the Amended Complaint.

### **Prayer for Relief**

For the reasons stated above, the States request that this Court grant them leave to file their First Amended Complaint (and exhibits thereto), attached as Exhibits A–G to this motion.

Dated: October 11, 2024

**ANDREW BAILEY**  
Missouri Attorney General

/s/ Joshua M. Divine  
\*Joshua Divine, #69875MO  
*Solicitor General*  
Maria Lanahan, #65956MO  
\*Samuel C. Freedlund, #73707MO  
*Deputy Solicitors General*

Office of the Missouri Attorney General  
207 W. High Street  
P.O. Box 899  
Jefferson City, Missouri 65102  
Telephone: (573) 751-8870  
Facsimile: (573) 751-0774  
Josh.Divine@ago.mo.gov  
Maria.Lanahan@ago.mo.gov  
Samuel.Freedlund@ago.mo.gov

*Counsel for Intervenor Plaintiff State of Missouri*

**KRIS W. KOBACH**  
Attorney General of Kansas

/s/ Erin B. Gaide  
\*Abhishek S. Kambli, #29788KS  
Deputy Attorney General  
\*Erin B. Gaide, #29691KS  
Assistant Attorney General

Office of the Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, Kansas 66612-1597  
Telephone: (785) 296-7109  
Facsimile: (785) 291-3767  
Abhishek.Kambli@ag.ks.gov  
Erin.Gaide@ag.ks.gov

*Counsel for Plaintiff State of Kansas*

Respectfully submitted,

**RAÚL R. LABRADOR**  
Idaho Attorney General

/s/ Alan Hurst  
\*\*Alan Hurst, #12425ID  
*Solicitor General*  
\*\*Michael Zarian, #12418ID  
*Deputy Solicitor General*

Idaho Office of the Attorney General  
P.O. Box 83720  
Boise, Idaho 83720  
Telephone: (208) 334-2400  
Facsimile: (208) 854-8071  
Alan.Hurst@ag.idaho.gov  
Michael.Zarian@ag.idaho.gov

*Counsel for Plaintiff State of Idaho*

\*Admitted pro hac vice  
\*\*Pro hac vice application forthcoming

**CERTIFICATE OF SERVICE**

I certify that on October 11, 2024, a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) and served on all counsel of record.

/s/ Joshua M. Divine

JOSHUA M. DIVINE